IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 21069 of 2007(G)

PETITIONER:

G-TECH COMPUTER EDUCATION, A FIRM
BHASKAR BUILDING, NEAR ASOKA HOEL,
KOZHIKODE,REPRESENTED BY ITS MANAGING PARTNER,
MR.MAHAROOF.M.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

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1. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUNDS ORGANISATION,
SUB REGIONAL OFFICE, BHAVISHYANIDHI BHAVAN,
P.B.NO.1806, ERANHIPALAM,KOZHIKODE.

2. THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL,SKYLARK BUILDING,16, NEHRUPLACE,
NEW DELHI.

BY ADV. SHRI.THOMAS MATHEW NELLIMOOTTIL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.21069 OF 2007

DATED THIS THE 9th DAY OF JULY, 2007

JUDGMENT

The petitioner is an establishment covered under the Employees Provident Fund and Miscellaneous Provisions Act (the Act for short) as per Ext.P1 order. Challenging the correctness of that order, the petitioner has filed an appeal before the 2nd respondent. The petitioner's grievance in this writ petition is that its liability to pay contributions under the Act itself is under challenge before the Tribunal against Ext.P1 and before deciding the appeal the 1st respondent has initiated proceedings under Section 7A for determining amounts due from the petitioner for subsequent periods. The petitioner submits that until the Tribunal decides the question of liability of the petitioner to be covered under the Act it is unfair to initiate proceedings for recovery of amounts for subsequent periods.

2. The learned standing counsel for the Provident Fund Organisation submits that since there is already an order holding that the petitioner is liable to be covered under the Act, there is nothing wrong in determining amounts due for the subsequent periods under Section 7A.

3. Having heard both sides, I dispose of this writ petition with the following directions.

4. The 1st respondent is free to continue proceedings under Section 7A and pass final orders for subsequent periods. However, final orders passed pursuant thereto shall be kept in abeyance until the Tribunal finally decides the appeal against Ext.P1 order and if the Tribunal finds that the petitioner is not liable to be covered, the orders to be passed as above shall not be implemented.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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